

AMENDED IN ASSEMBLY AUGUST 22, 2006

AMENDED IN ASSEMBLY AUGUST 14, 2006

AMENDED IN SENATE MAY 26, 2006

AMENDED IN SENATE APRIL 19, 2006

SENATE BILL

No. 1674

Introduced by Senator Murray

(Principal coauthor: Assembly Member Negrete McLeod)

(Coauthors: Senators Ashburn, Denham, Maldonado, and Romero)

(Coauthors: Assembly Members Chan, Garcia, Koretz, Leno, Lieber, Matthews, and Yee)

February 24, 2006

An act to amend Sections 41350, 49430.5, 49531, and 49536 of, and to add Section 49437 to, the Education Code, relating to school meals, *making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.*

LEGISLATIVE COUNSEL'S DIGEST

SB 1674, as amended, Murray. Public schools: meal reimbursement.

(1) Existing law requires the Superintendent of Public Instruction to make allowances for child nutrition to child nutrition entities, as defined, based on reimbursement rates for free and reduced-price meals and to school districts and county superintendents of schools for the differences between the current fiscal year average statewide cost for all free and reduced-price meals and the total income per meal, as specified.

Existing law permits any child nutrition entity to apply to the State Department of Education for all available federal and state funds so that a nutritionally adequate breakfast or lunch, or both, may be provided to pupils each schoolday at each school in the districts or maintained by the county superintendents of schools, or at private schools and parochial schools and to children receiving child development services. Existing law limits state reimbursement to meals provided to pupils who are within the relevant definitions and criteria in federal statutes and regulations that prescribe eligibility for free and reduced-price meals.

Existing law requires the department, prior to July 1 each year, to prescribe an adjustment in the established state meal contribution rates based on the specified cost-of-living adjustment.

Existing law sets the per meal reimbursement rate received by elementary, middle, and high schools for free and reduced-price meals at 21¢. Existing law requires schools to follow specified state and federal guidelines in order to qualify for reimbursement. Existing law requires that the reimbursement rates be adjusted annually for cost of living increases, as specified.

This bill would require, *commencing with the 2006–07 fiscal year, the increased reimbursement rate for free and reduced-price meals for schools and specified child development programs*, instead of only schools, that follow specified state and federal nutrition guidelines *and other specified requirements to be increased by 7¢ 21¢. The bill would specify that the adjustment to the reimbursement rate be completed by the department by July 1 of each year. The bill would require the educational entity seeking the reimbursement to notify the department of an intent to self-certify compliance with the other requirements, as specified, in order to receive the 21¢ reimbursement for the 2006–07 fiscal year. The bill would require, beginning July 1, 2007, the educational entity seeking the reimbursement to provide the department with a one-time certification of compliance with the other requirements, as specified, in order to be eligible for the 21¢ reimbursement.*

The bill would specify 15.63¢ as the reimbursement rate for schools and specified child development programs that do not meet the specified requirements for the 21¢ reimbursement. The bill would eliminate the requirement that the adjustments to the default reimbursement rate reflect the changes in the cost of operating a school breakfast and lunch program, rather than only the standard

cost-of-living adjustment, and be made, rather than only prescribed, beginning July 1 of each year.

~~(2) The bill also would make conforming and technical, nonsubstantive changes to the provisions of existing law.~~

(2) The bill would appropriate \$37,800,000 from the General Fund to the Superintendent for transfer to Section A of the State School Fund in augmentation of the amount appropriated in a specified item of the Budget Act of 2006 for purposes of certain child nutrition programs. The bill would provide that, for purposes of satisfying the minimum annual funding obligation for school districts and community college districts required under the California Constitution, those funds are General Fund revenues appropriated for school districts and community college districts for the 2006–07 fiscal year.

(3) This bill would declare that it is to take effect immediately as an urgency statute.

Vote: ~~majority~~^{2/3}. Appropriation: ~~no~~ yes. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 41350 of the Education Code is
2 amended to read:

3 41350. The Superintendent shall make allowances for child
4 nutrition as follows:

5 (a) Reimbursement of child nutrition entities, as defined by
6 Section 49530.5, and other educational entities specified pursuant
7 to Section 49430.5 for all free, reduced-price, and paid meals,
8 pursuant to Sections 49430.5 and 49536.

9 (b) Reimbursement of school districts and county
10 superintendents of schools for the difference between the current
11 fiscal year average statewide lunch or breakfast cost for all free
12 and reduced-price meals required by Section 49550 as
13 determined by the Superintendent and the combined total income
14 per meal derived from pupil charges, federal funds, and state
15 funds as provided in Article 11 (commencing with Section
16 49550) of Chapter 9 of Part 27.

17 (c) The combined state and federal reimbursements shall not
18 exceed the current fiscal year average statewide lunch or
19 breakfast cost. If the combined pupil charges, state

1 reimbursements, and federal reimbursements exceed the current
2 average statewide lunch or breakfast costs, the federal funds shall
3 be expended prior to the expenditure of any state funds.

4 SEC. 2. Section 49430.5 of the Education Code is amended to
5 read:

6 49430.5. (a) ~~The reimbursement~~ *Beginning with the*
7 *2006–07 fiscal year, the reimbursement rate shall be twenty-one*
8 *cents (\$0.21) for a school or child development program operated*
9 *pursuant to Chapter 2 (commencing with Section 8200) or*
10 *Chapter 2.5 (commencing with Section 8400) of Part 6 receives*
11 *beyond the reimbursement rate provided pursuant to Section*
12 *49536 for that sold or served free and reduced-price meals sold*
13 *or served within a school district, charter school, or county office*
14 *of education shall be increased by seven cents (\$0.07); to pupils*
15 *in elementary, middle, or high schools included within a school*
16 *district, charter school, or county office of education and that*
17 *meets the requirements of subdivision (b) or (c). Any school or*
18 *child development program that does not meet the requirements*
19 *of subdivision (b) or (c) shall receive the reimbursement rate*
20 *provided pursuant to Section 49536.*

21 (b) In order to qualify to receive the reimbursement increase
22 pursuant to subdivision (a), a school ~~as defined~~ *specified* in
23 subdivision (a) shall satisfy both of the following:

24 (1) Follow the United States Department of Agriculture
25 (USDA) nutritional guidelines through the use of any of the
26 following:

27 (A) The Traditional Food-Based *Menu* Planning Approach,
28 Enhanced Food-Based Menu Planning Approach, or Nutrient
29 Standard Menu Planning Approach, developed by the USDA.

30 (B) Any USDA-approved Alternate Menu Planning Approach
31 (Any Reasonable Approach), which includes California's
32 Shaping Health as Partners in Education (SHAPE) menu
33 patterns, as approved by the ~~department~~ *State Department of*
34 *Education*.

35 (C) Any other USDA-approved meal pattern or menu
36 planning.

37 (2) Not sell or serve any food item ~~whose final preparation~~
38 ~~method prior to serving, the final preparation method for which,~~
39 *prior to serving, requires the item to be deep fried.*

(c) In order to qualify to receive the reimbursement increase pursuant to subdivision (a), a child development program—~~as defined specified~~ in subdivision (a) shall satisfy both of the following:

(1) Meet developmentally and programmatically appropriate meal pattern or meal planning requirements developed by the USDA.

(2) Not sell or serve any food item—~~whose final preparation method prior to serving~~, *the final preparation method for which, prior to serving*, requires the item to be deep fried.

(d) A school district, charter school, county office of education, or child development program defined in subdivision (a) shall notify the department of an intent to self-certify compliance with paragraph (2) of subdivision (b) or paragraph (2) of subdivision (c) in order to receive the reimbursement specified in subdivision (a) for the 2006–07 fiscal year.

(e) Beginning July 1, 2007, in order to be eligible to receive the reimbursement specified in subdivision (a), a school district, charter school, county office of education, or child development program defined in subdivision (a) shall provide the department with a one-time certification of compliance with paragraph (2) of subdivision (b) or paragraph (2) of subdivision (c).

(f) The reimbursement rates set forth in this section shall be adjusted annually for increases in cost of living in the same manner set forth in Section 42238.1.

(g) A school or child development program that meets the definition in subdivision (a) may apply for the reimbursement provided by this section and any other reimbursements provided by this code.

SEC. 3. Section 49437 is added to the Education Code, to read:

49437. For purposes of this article, “deep fried” means any food item that is cooked by total submersion in oil or fat.

SEC. 4. Section 49531 of the Education Code is amended to read:

49531. (a) Any child nutrition entity or other educational entity specified in Section 49430.5, may apply to the State Department of Education for all available and applicable federal and state funds so that a nutritionally adequate breakfast or lunch, or both, may be provided to pupils each schoolday at each school

1 in the districts or maintained by the county superintendents of
2 schools, or at private schools and parochial schools, and to
3 children receiving child development services. The state board
4 shall adopt rules and regulations for the operation of lunch and
5 breakfast programs in school districts. A child nutrition entity
6 that receives state funds pursuant to this article, shall provide
7 breakfasts and lunches in accordance with state and federal
8 guidelines.

9 (b) A nutritionally adequate breakfast, for purposes of this
10 article, is one that qualifies for reimbursement under the federal
11 child nutrition program regulations, meets a minimum of
12 one-fourth of the current Recommended Dietary Allowance
13 established by the National Research Council, and incorporates
14 the current United States Dietary Guidelines for Americans. A
15 nutritionally adequate lunch is one that qualifies for
16 reimbursement under the federal child nutrition program
17 regulations, meets one-third of the Recommended Dietary
18 Allowance established by the National Research Council, and
19 incorporates the current United States Dietary Guidelines for
20 Americans.

21 (c) State reimbursement for free and reduced-price meals
22 provided pursuant to this article or Section 49430.5 shall be
23 limited to meals provided to pupils who are within the relevant
24 definitions and criteria in federal statutes and regulations that
25 prescribe eligibility for free and reduced-price meals.

26 SEC. 5. Section 49536 of the Education Code is amended to
27 read:

28 49536. (a) The State Department of Education shall, prior to
29 July 1 of each year, prescribe an adjustment in the state meal
30 contribution rates established pursuant to this section for the
31 forthcoming fiscal year. ~~The adjustments shall reflect the changes~~
32 ~~in the cost of operating a school breakfast and lunch program and~~
33 ~~shall be made commencing on July 1 of each year.~~

34 ~~(b) The cost-of-living adjustment pursuant to subdivision (a)~~
35 ~~shall be equal to the percentage change determined pursuant to~~
36 ~~subdivision (b) of Section 42238.1.~~

37 ~~(c)~~

38 ~~(b) The—Beginning with the 2006–07 fiscal year, the~~
39 reimbursement rates established pursuant to this section shall be
40 ~~the base reimbursement rates fifteen and sixty-three hundredths~~

1 cents (\$0.1563) for free and reduced-price meals provided
2 pursuant to this article. *The reimbursement rates set forth in this*
3 *section shall be adjusted annually for increases in the cost of*
4 *living in the same manner as set forth in Section 42238.1.*

5 SEC. 6. (a) *The sum of thirty-seven million eight hundred*
6 *thousand dollars (\$37,800,000) is hereby appropriated from the*
7 *General Fund to the Superintendent of Public Instruction for*
8 *transfer to Section A of the State School Fund in augmentation of*
9 *the amount appropriated in Schedule (1) of Item 6110-203-0001*
10 *of Section 2.00 of the Budget Act of 2006.*

11 (b) *For the purposes of making the computations required by*
12 *Section 8 of Article XVI of the California Constitution, the*
13 *appropriation made by subdivision (a) shall be deemed to be*
14 *“General Fund revenues appropriated for school districts,” as*
15 *defined in subdivision (c) of Section 41202 of the Education*
16 *Code, and “General Fund revenues appropriated for community*
17 *college districts,” as defined in subdivision (d) of Section 41202*
18 *of the Education Code, for the 2006–07 fiscal year, and included*
19 *within the “total allocations to school districts and community*
20 *college districts from General Fund proceeds of taxes*
21 *appropriated pursuant to Article XIII B,” as defined in*
22 *subdivision (e) of Section 41202 of the Education Code, for the*
23 *2006–07 fiscal year.*

24 SEC. 7. *This act is an urgency statute necessary for the*
25 *immediate preservation of the public peace, health, or safety*
26 *within the meaning of Article IV of the Constitution and shall go*
27 *into immediate effect. The facts constituting the necessity are:*

28 *In order to provide the increased reimbursement rate for*
29 *school meals to schools in a timely manner, it is necessary that*
30 *this act take effect immediately.*